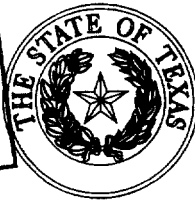
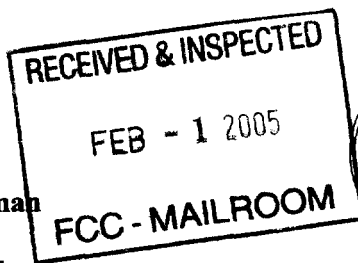


Julie Parsley
Commissioner

Paul Hudson
Chairman

Barry T. Smitherman
Commissioner

W. Lane Lanford
Executive Director



Public Utility Commission of Texas

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Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D.C. 20554

Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2120 L. Street, NW - Suite 600
Washington, D.C. 20037

January 20, 2005


RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45
TX PUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant
to FTA '96 §214(e) (2)

ETC Designation – Sprint Corporation

Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 – 54.203, the Texas Public Utility Commission (TPUC) has granted the eligible telecommunications carrier (ETC) designation to Sprint Corporation (a CMRS provider). Please see the attached TPUC *Final Order* in Docket No. 28495, issued on January 14, 2005, which grants the ETC designation for Southwestern Bell Telephone Company (d/b/a SBC) and Verizon Southwest, Inc. service areas.

If you require any additional information please call Janis Ervin at (512)-936-7372.

Sincerely,


Janis Ervin - Senior Policy Specialist
Telecommunications Division - Texas Public Utility Commission

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SOAH DOCKET NO. 473-04-0736

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APPLICATION OF SPRINT	§	PUBLIC UTILITY COMMISSION
CORPORATION FOR	§	
DESIGNATION AS AN ELIGIBLE	§	OF TEXAS
TELECOMMUNICATIONS	§	
CARRIER (ETC) PURSUANT TO 47	§	
U.S.C. §214(e) AND P.U.C. SUBST. R.	§	
26.418	§	

ORDER

This Order grants the application of Sprint Corporation for designation as an eligible telecommunications carrier (ETC) in the requested portions of 679 wire centers served by Verizon Southwest, Inc. and Southwestern Bell Telephone Company, Inc., d/b/a SBC Texas.¹ Accordingly, the Commission adopts the proposal for decision (PFD) and proposal for decision on remand (PFD on Remand) issued by the State Office of Administrative Hearing's (SOAH's) administrative law judge (ALJ), including the findings of fact and conclusions of law, except as discussed in this Order.

I. Discussion

A. Lifeline and LinkUp

The ALJ found that Sprint demonstrated that it will offer Lifeline and LinkUp service to qualifying low-income consumers in compliance with federal rules and P.U.C. SUBST. R. 26.418.² The ALJ also concluded that Sprint will have to comply with the Commission's Lifeline and LinkUp rule (P.U.C. SUBST. R. 26.412).³

¹ See Substituted Attachments to Supplemental Testimony of Dr. Brian K. Stahr (July 26, 2004) for the list of wire centers at issue in this proceeding.

² Proposal for Decision at 10 (Nov. 2, 2004).

³ *Id.*

The Commission upholds the ALJ's findings, and, consistent with its prior decisions in other wireless ETC proceedings,⁴ requires Sprint to provide information regarding the availability of the Lifeline and LinkUp discounts in all service contracts, or in separate statements given to all customers.

To reflect the Commission's decision on this issue, new conclusion of law 11A is added.

B. Notification of Failure to Provide Service

The ALJ did not address whether Sprint must notify the Commission in the event that it fails to provide service to a requesting customer in the ETC designation area. Therefore, consistent with its prior decisions in other wireless ETC proceedings,⁵ the Commission requires Sprint to notify both the Commission and the requesting customer in the event that it fails to provide service to that requesting customer in its ETC designation area.

To reflect the Commission's decision on this issue, new conclusion of law 11B is added.

II. Other Changes to the PFD

The Commission makes the following additional changes to the PFD.

The Commission amends finding of fact 12 to reflect that the exception that allows ETC designation below the wire-center level applies to non-rural ILEC wire centers only.

⁴ See *Application of WWC Texas RSA Limited Partnership, d/b/a CellularOne (Western Wireless) to Amend its Designation as an Eligible Telecommunications Carrier (ETC) in Certain Areas Served by Non-Rural Telephone Companies*, Docket No. 28688, Order at 2-3 (Nov. 24, 2004) (*Western Wireless II*). See also *Application of Dobson Cellular Systems, Inc. for Designation as a Federal Eligible Telecommunications Carrier and Petition to Redefine Certain Rural Service Areas*, Docket No. 28462, Order at 9, 11 (Jan. 14, 2005) (*Dobson Non-Rural*).

⁵ See *Western Wireless II* Order at 10; *Dobson Non-Rural* Order at 7; *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to 47 U.S.C. 241(e) and P.U.C. SUBST. R. 26.418*, Docket No. 29144, Proposal for Decision at 49 (Oct. 6, 2004) (*Dobson Rural*).

The Commission amends conclusion of law 9 to correct the Commission rule reference and reflect application of P.U.C. SUBST. R. 26.418(g)(1)(B)(iv).

The Commission adds references to the Commission's ETC rules to findings of fact 13, 14, 16, 17, and 18 and conclusions of law 4, 5, 6, and 11 to reflect the application of the Commission's rules, as well as federal rules, in evaluating Sprint's filing.

III. Findings of Fact

1. Sprint Corporation (Sprint) is a telecommunications carrier that provides commercial mobile radio service (CMRS) in Texas.
2. On September 5, 2003, Sprint filed an application with the Public Utility Commission of Texas for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(c), so that it could seek support from the Federal Universal Service Fund (FUSF).
3. Notice of Sprint's application was published in the *Texas Register*.
4. Sprint requests ETC designation in 679 non-rural exchanges served by the local incumbent carriers (ILECs), either Southwestern Bell Telephone, Inc. (SBC Texas) or Verizon Southwest (Verizon). SBC Texas serves 456 of the exchanges, and Verizon serves 223 of the exchanges.
5. The Office of Public Utility Counsel and Verizon filed motions to intervene, and both were granted party status in this proceeding.
6. On October 13, 2003, the Commission referred Sprint's application to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
7. The Commission issued a preliminary order on November 11, 2003.
8. The ALJ convened the hearing on January 26, 2004. The ALJ reopened the record to address certain issues that had been raised by the Commission in *Application of Dobson Cellular Systems, Inc. for Designation as a Federal Eligible Telecommunications Carrier and Petition to Redefine Certain Rural Service Areas*, Docket No. 28462 (*Dobson Non-Rural*).

9. The ALJ convened another hearing on August 5, 2004, to address the issues raised by the Commission in *Dobson Non-Rural*.
10. The record closed on September 24, 2004, after the parties filed written briefs.
11. Sprint is federally licensed throughout all of the areas in which it seeks ETC designation.
12. Sprint will offer the following specific services designated for FUSF support specified in 47 C.F.R. § 54.101 (supported services):
 - a. voice grade access to the public switched network;
 - b. local usage;
 - c. dual tone multi-frequency signaling or its functional equivalent;
 - d. single party service or its functional equivalent;
 - e. access to emergency services;
 - f. access to operator services;
 - g. access to directory assistance; and
 - h. toll limitation for qualifying low-income consumers.
13. Sprint will provide the supported services to any customer who requests those services within its designated service area, pursuant to P.U.C. SUBST. R. 26.418(g)(1)(B)(ii).
14. Sprint provided a sufficiently detailed showing that would allow the Commission and any party to determine whether a consumer falls within Sprint's ETC designation area, pursuant to P.U.C. SUBST. R. 26.418(g)(1)(B)(iv).
15. Sprint will provide the supported services using its existing network infrastructure, which includes the antennas, cell-sites, towers, trunking, mobile switching, and interconnection facilities owned or leased by Sprint.
16. Sprint has adequately explained how it plans to offer the supported services to customers, pursuant to P.U.C. SUBST. R. 26.418(g)(1)(B)(i).
17. Sprint can and will advertise the availability of, and charges for, the supported services using media of general distribution as required by P.U.C. SUBST. R. 26.418(c)(2).
18. Sprint will offer Lifeline and Link-Up service to qualifying low-income consumers pursuant to P.U.C. SUBST. R. 26.418(d).

19. Competition furthers the goals of universal service and provides the consumer with a greater choice of providers and service choices.
20. Designating Sprint as an ETC would advance principles of customer service, by providing increased competition (and, thus, customer choice, better calling coverage, lower rates, higher quality, larger local calling areas, and mobile emergency services).
21. Sprint has adopted the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.
22. Sprint will make available to the Commission, upon request, information regarding all customer inquiries.
23. Designation of Sprint as an ETC in the non-rural service areas in issue is consistent with the public interest.

IV. Conclusions of Law

1. The Commission has jurisdiction over this docket pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (FTA), 47 U.S.C. § 214(e)(6), and the Public Utility Regulatory Act (PURA) §§ 52.001 *et seq.*
2. The notice provided in this docket is legally sufficient, pursuant to P.U.C. PROC. R. 22.55 and P.U.C. SUBST. R. 26.418(g)(1).
3. SOAH has jurisdiction over all matters relating to the conduct of the hearing in this proceeding, including the preparation of a Proposal for Decision with Findings of Fact and Conclusions of Law in accordance with PURA § 14.053 and Tex. Gov't Code Ann. § 2003.049.
4. The designation of a telecommunications provider as an ETC is the responsibility of the Commission. 47 C.F.R. § 54.201(b) and P.U.C. SUBST. R. 26.418(b).
5. Only carriers designated as ETCs are eligible for FUSF support. 47 C.F.R. § 54.201(a) and P.U.C. SUBST. R. 26.418(a).

6. Designation as an ETC is contingent upon a finding that the carrier satisfies the requirements of 47 C.F.R. § 54.201(d) and P.U.C. SUBST. R. 26.418.
7. Sprint is a common carrier as is required by 47 C.F.R. § 214(e)(1) and P.U.C. SUBST. R. 26.418(c), as that term is defined by 47 U.S.C. § 153(10) and 47 C.F.R. § 20.9(a)(7).
8. Sprint is not subject to quality of service or consumer protection rules identified in sections 26.21 – 26.28, 26.30 – 26.31, and 26.52 – 26.54 of the Commission's substantive rules.
9. Sprint has shown the service areas in which it seeks designation as an ETC under P.U.C. SUBST. R. 26.418(g)(1)(B)(iv), providing sufficient detail that would allow any party to make a finding as to whether a consumer falls within its ETC designation area.
10. Sprint will offer each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. § 254 to any consumer in the service areas for which it seeks ETC designation as required by P.U.C. SUBST. R. 26.418(g)(1)(B)(ii), without restriction and consistent with the requirements of the Federal Communications Commission in *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (Jan. 22, 2004).
11. Sprint has demonstrated that it will be able to provide each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. § 254, and adequately shown the facilities that it will use to provide such services to consumers, as required by P.U.C. SUBST. R. 26.418(g)(1)(B)(i).
- 11A. Sprint is required to include language in all service contracts, or in separate statements given to all customers, that informs customers of the availability of Lifeline and LinkUp discounts.
- 11B. If Sprint is unable to provide service to a requesting consumer in its ETC designation area, it will notify the requesting customer and the Commission,

which will have authority to determine whether Sprint failed to meet its obligation as an ETC.

12. Providing service in less than the entire wire center of a non-rural ILEC does not preclude Sprint from being granted ETC designation in the areas of a non-rural ILEC's wire center that are within its CMRS-licensed area.
13. Sprint is not required to make a separate and distinct public-interest showing in its direct case.
14. The potential dilution of the FUSF would not preclude Sprint from being designated an ETC.
15. Based on the above Findings of Fact and Conclusions of Law, Sprint satisfies the federal and state requirements for designation as an ETC in the 679 non-rural wire centers at issue in this case.

V. Ordering Paragraphs

1. Sprint's application for ETC designation in the 679 Verizon and SBC Texas wire centers, as identified in Sprint's Substituted Attachments to the Supplemental Testimony of Brian K. Stalhr filed on July 26, 2004, is approved in accordance with the above Findings of Fact and Conclusions of Law.
2. Sprint shall include language in all service contracts, or in separate statements given to all customers, advising customers of the availability of the Lifeline and LinkUp discounts and the requirements for such discounts.
3. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 14th day of January 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



JULIE PARSLEY, COMMISSIONER



PAUL HUDSON, CHAIRMAN



BARRY T. SMITHERMAN, COMMISSIONER

Julie Parsley
Commissioner

Paul Hudson
Chairman

Barry T. Smitherman
Commissioner

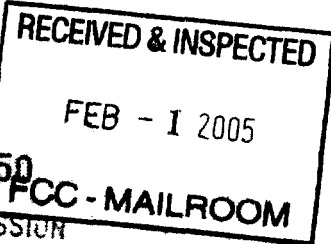
W. Lane Lanford
Executive Director



Public Utility Commission of Texas

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Marlene H. Dortch - Secretary
Federal Communications Commission
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Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2120 L. Street, NW - Suite 600
Washington, D.C. 20037

January 19, 2005

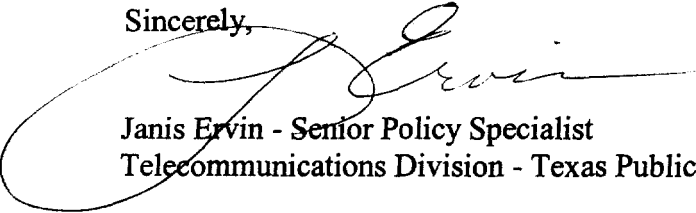
RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45
TX PUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant
to FTA '96 §214(e) (2)

Dobson Cellular Systems, Inc. - ETC Designation for Non-Rural ILEC Service Areas

Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 – 54.203, the Texas Public Utility Commission (TPUC) has granted the eligible telecommunications carrier (ETC) designation to Dobson Cellular Systems, Inc. (Dobson). Please see the attached TPUC *Final Order No. 3* in Docket No. 28462, issued on January 14, 2005. The Commission's *Final Order* allows Dobson ETC designation for non-rural ILEC service areas within Verizon Southwest and Southwestern Bell Telephone (d/b/a SBC) territories.

If you require any additional information please call Janis Ervin at (512)-936-7372.

Sincerely,


Janis Ervin - Senior Policy Specialist
Telecommunications Division - Texas Public Utility Commission

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APPLICATION OF DOBSON	§	PUBLIC UTILITY COMMISSION
CELLULAR SYSTEMS, INC. FOR	§	
DESIGNATION AS A FEDERAL	§	OF TEXAS
ELIGIBLE	§	
TELECOMMUNICATIONS	§	
CARRIER AND PETITION TO	§	
REDEFINE CERTAIN RURAL	§	
SERVICE AREAS	§	

ORDER

I. Introduction

This Order grants the application of Dobson Cellular Systems, Inc. for designation as an eligible telecommunications carrier (ETC) in the requested portions of 129 wire centers served by Verizon Southwest, Inc. and Southwestern Bell Telephone Company, Inc., d/b/a SBC Texas (SBC Texas).¹ Accordingly, the Commission adopts the proposal for decision (PFD) and proposal for decision on remand (PFD on Remand) issued by the State Office of Administrative Hearing's (SOAH's) administrative law judge (ALJ), including the findings of fact and conclusions of law, except as discussed in this Order.

II. Procedural History

At its April 29, 2004 open meeting, the Commission adopted in part, modified in part, and remanded in part the PFD issued on April 15, 2004. The PFD was returned to SOAH on May 19, 2004. On October 26, 2004, the ALJ issued the PFD on Remand, which contained additional and separately numbered findings of fact and conclusions of law that reflect primarily the procedural history and issues addressed on remand. In this

¹ See Supplemental Testimony on Remand of Thomas A. Coates on Behalf of Dobson Cellular Systems Inc., Exh. TC-11 (Sept. 27, 2004) for a list of the specific wire centers at issue in this proceeding.

Order, the Commission maintains the numbering of the findings and conclusions from both the PFD and the PFD on Remand.

To reflect this procedural history, the Commission adds two new sections, Findings of Fact on Remand and Conclusions of Law on Remand, and retains the original numbering of both sections from the PFD and PFD on Remand.

III. Discussion

The ALJ, finding that the public-interest analysis for ETC designation in non-rural ILEC study areas had not been squarely addressed in Texas, determined that Dobson was not required to make a separate and distinct public-interest showing in its direct case.² However, the ALJ concluded that, if an intervenor raised a public-interest issue, then the public interest could be examined, and could result in the denial of an application.³

The Commission declines to adopt the ALJ's public-interest analysis in this proceeding. Consistent with its decision in both *Western Wireless II* and *Nextel*,⁴ the Commission finds that designation of an additional ETC in non-rural ILEC service areas is *per se* in the public interest. Therefore, for applicants seeking ETC designation in non-rural ILEC service areas, the Commission concludes that no separate public-interest analysis is necessary in determining the sufficiency of the application.

To reflect the Commission's decision on this issue, conclusions of law 18 and 19 are amended and conclusions of law 20, 21 and 22 are deleted.

IV. Other Changes to the PFD

The Commission makes the following additional changes to the PFD.

² Proposal for Decision at 20 (Apr. 15, 2004).

³ *Id.*

⁴ *Application of WWC Texas RSA Limited Partnership, d/b/a CellularOne (Western Wireless) to Amend Its Designation as an Eligible Telecommunications Carrier (ETC) In Certain Areas Served by Non-Rural Telephone Companies*, Docket No. 28688, Order at 3 (Nov. 24, 2004) (*Western Wireless II*); *Application of NPCR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation*, Docket No. 27709, Order at 8 (July 30, 2004) (*Nextel*).

The Commission amends findings of fact 5 and 20, finding of fact on remand 3, and conclusions of law 16 and 26 to reflect that the areas in question are non-rural ILEC service areas.

The Commission corrects finding of fact 14 to reflect that Dobson will provide the supported services throughout the requested ETC designation area, not throughout the entire service area.

The Commission adds finding of fact on remand 7A in support of conclusion of law on remand 2 to reflect that Dobson committed to providing the supported services to any consumer, as required by P.U.C. SUBST. R. 26.418(g)(1)(B)(ii).

The Commission amends conclusion of law 3 and conclusion of law on remand 26 to refer to the exhibit listing the wire centers at issue in this proceeding.

The Commission corrects conclusion of law on remand 1 to reflect the application of P.U.C. SUBST. R. 26.418(g)(1)(B)(iv), rather than P.U.C. SUBST. R. 26.418(g)(1)(B)(iii).

The Commission has added references to the Commission's ETC rules to conclusions of law 6 and 13 to reflect the application of the Commission's rules, as well as federal rules, in evaluating Dobson's filing.

V. Findings of Fact

1. Dobson Cellular Systems, Inc. is a telecommunications carrier that provides commercial mobile radio service (CMRS) in Texas.
2. On August 29, 2003, Dobson filed an application with the Public Utility Commission of Texas for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(c), so that it could seek support from the Federal Universal Service Fund (FUSF).
3. Notice of the application was issued to the public on September 5, 2003, and published in the *Texas Register*.

4. On December 12, 2003, Dobson filed its first amended application for designation as an ETC pursuant to 47 U.S.C. § 214(c), so that it could seek support from the FUSF.
5. Under its amended application, Dobson requests ETC designation in 129 wire centers served by the non-rural incumbent local exchange carriers (ILECs), Southwestern Bell Telephone, Inc. d/b/a SBC Texas (SBC Texas) or Verizon Southwest (Verizon).
6. Texas Rural Telephone Alliance, the Office of Public Utility Counsel, and Verizon filed motions to intervene, and all were granted party status in this proceeding.
7. On October 15, 2003, the Commission referred Dobson's application to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
8. Dobson filed its direct testimony on December 31, 2003, which established an effective date of April 29, 2004, pursuant to P.U.C. SUBST. R. 26.418(g)(2)(D).
9. The Commission issued a preliminary order on November 24, 2003.
10. The parties waived the evidentiary hearing and stipulated to the admissibility of evidence and testimony.
11. The record closed on April 1, 2004, after the parties filed written closing arguments.
12. Dobson is federally licensed throughout all of the areas in which it seeks ETC designation.
13. Dobson will offer the following specific services designated for FUSF support specified in 47 C.F.R. § 54.101 (supported services):

- a. voice grade access to the public switched network;
 - b. local usage;
 - c. dual tone multi-frequency signaling or its functional equivalent;
 - d. single party service or its functional equivalent;
 - e. access to emergency services;
 - f. access to operator services;
 - g. access to directory assistance; and
 - h. toll limitation for qualifying low-income consumers.
14. Dobson can and will make the supported services available throughout the requested ETC designation area.
 15. Dobson can and will advertise the availability of, and charges for, the supported services using media of general distribution.
 16. Dobson will offer Lifeline and Link-Up service to qualifying low-income consumers.
 17. Competition furthers the goals of universal service and provides the consumer with a greater choice of providers and service choices, which will in turn result in market-driven prices and quality.
 18. Designating Dobson as an ETC would advance principles of customer service, by providing increased competition (and, thus, customer choice, greater mobility, larger local calling areas, and mobile emergency services).
 19. Dobson has adopted the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.
 20. Designation of Dobson as an ETC in the non-rural ILEC service areas in issue is consistent with the public interest.

VI. Findings of Fact on Remand

1. The Proposal for Decision (PFD) issued on April 14, 2004, determined that Dobson met the requirements for designation as an ETC in accordance with Section 214(e) of the federal Communications Act, as amended (47 U.S.C. § 151, *et seq.*) and P.U.C. SUBST. R. 26.418.

2. On May 19, 2004, the Commission issued an Order on Remand in which it adopted the PFD, with the exception of three issues that were remanded to SOAH for further consideration.
3. On remand, in Exhibits TC-11, TC-12 and TC-15 attached to the Supplemental Testimony on Remand of Thomas A. Coates filed on September 27, 2004, Dobson has specifically identified, by wire center code, the 129 wire centers currently served by non-rural ILECs Verizon and SBC Texas in which it seeks designation as an ETC as well as maps depicting the boundaries of each wire center, with its own coverage areas indicated.
4. For each of the wire centers identified in finding of fact 3, Dobson seeks ETC designation in either the entirety of the wire center or in the portions of the wire center located within the counties in which Dobson is specifically licensed by the Federal Communications Commission (FCC) to provide service.
5. For wire centers that Dobson does not fully serve, Dobson's service area is established by the county of residence of the potential customer.
6. Dobson provided a sufficiently detailed showing that would allow the Commission and any party to determine whether a consumer falls within Dobson's ETC designation area.
7. Dobson has unconditionally committed to providing the supported services to requesting consumers in its ETC-designated areas pursuant to the following process:
 - a. If a request for service is made from a potential customer within Dobson's service area, Dobson will provide service using a conventional wireless handset.
 - b. If a conventional handset does not provide adequate signal strength at the customer's location to ensure that reliable service can be provided, then Dobson will take a number of steps to provide service. These steps include determining whether: (1) the requesting customer's equipment can be modified or replaced to provide service; (2) a booster, antenna or other equipment can be deployed to provide service; (3) adjustments can be made to the nearest cell tower to provide service; (4) there are any other adjustments that can be made to network or additional customer facilities

to provide service; (5) it can offer resold services from another carrier's facilities to provide service; and (6) an additional cell site, cell extender, or repeater can be employed or can be constructed to provide service.

- c. If, after following these steps, Dobson still cannot provide service, it will notify the requesting party and the Commission, which will have authority to determine whether Dobson failed to meet its obligation as an ETC.
- 7A. Dobson unconditionally commits to offer the supported services to any consumer in its ETC designation area as required by P.U.C. Subst. R. 26.418 and 47 U.S.C. § 214(e).
8. Dobson has committed to be responsible for up to \$5,000 of construction costs for provisioning service to a customer.
9. Dobson has committed to advising consumers of additional construction costs for providing service as soon as they are known to Dobson.
10. Dobson has committed to disclose additional construction costs to consumers prior to commencing construction so consumers can decide whether to incur the costs to receive service from Dobson.
11. Construction costs cannot be forecast without knowing the specific circumstances of each requesting consumer's location because factors such as land leases, geographic constraints, and labor costs, among other things, are all variable.
12. Dobson has identified the different types of customer equipment that may be used to obtain service.
13. Dobson has listed the number and location of all of its cell sites.
14. Dobson has provided a description of the equipment, including its capabilities, used at each of its cell sites.
15. Dobson's facilities are interconnected with the public switched telephone network throughout the State of Texas and Dobson has interconnection agreements with Verizon Southwest and SBC Texas to provide the supported services.
16. Dobson adequately explained how it plans to offer to provide the supported services to end users.

VII. Conclusions of Law

1. The Commission has jurisdiction over this docket pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (FTA), 47 U.S.C. § 214(e)(6), and the Public Utility Regulatory Act (PURA) §§ 52.001 *et seq.*
2. The notice provided in this docket is legally sufficient, pursuant to P.U.C. PROC. R. 22.55 and P.U.C. SUBST. R. 26.418(g)(1).
3. SOAH has jurisdiction over all matters relating to the conduct of the hearing in this proceeding, including the preparation of a Proposal for Decision with Findings of Fact and Conclusions of Law in accordance with PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049.
4. The designation of a telecommunications provider as an ETC is the responsibility of the Commission. 47 C.F.R. § 54.201(b).
5. Only carriers designated ETCs are eligible for FUSF support. 47 C.F.R. § 54.201(a).
6. Designation as an ETC is contingent upon a finding that the carrier satisfies the requirements of 47 C.F.R. § 54.201(d) and P.U.C. SUBST. R. 26.418.
7. P.U.C. SUBST. R. 26.418 incorporates the federal requirements for ETC designation.
8. Dobson is a common carrier as is required by 47 C.F.R. § 214(e)(1) and P.U.C. SUBST. R. 26.418(c), as that term is defined by 47 U.S.C. § 153(10) and 47 C.F.R. § 20.9(a)(7).
9. To be designated an ETC, a carrier must reasonably demonstrate its ability and willingness to provide the supported services required of an ETC.
10. Carriers are not required to provide the supported services prior to designation as an ETC.
11. Dobson has adequately shown that it will provide all of the supported services if designated an ETC.

12. Dobson is not subject to quality of service or consumer protection rules identified in sections 26.21 – 26.28 and 26.30 – 26.31 of the Commission's substantive rules.
13. An applicant for ETC designation must show that it will make the supported services available to consumers throughout the requested designated service area, as required by P.U.C. SUBST. R 26.418(g)(1)(B)(ii).
14. Under 47 U.S.C. § 214(e)(5), "service area" is defined as "a geographic area established by a State commission [or the [FCC] under paragraph (6)] for the purpose of determining universal service obligations and support mechanisms."
15. For an area served by a non-rural provider, there is no study area requirement and an ETC can be designated on an exchange basis or on less than an exchange basis.
16. Dobson's failure to show that it will provide service throughout an entire non-rural ILEC's wire center does not preclude it from being granted ETC designation in the areas of a non-rural ILEC's wire center that are within its CMRS-licensed area.
17. Absent specific details regarding the means by which Dobson will advertise the availability of LifeLine and Link-Up services, it is appropriate for the Commission to require Dobson to include language in all service contracts, or in separate statements given to all customers, of the availability of Lifeline and Link-Up discounts.
18. Once an applicant shows that its application meets the criteria in the Commission's rules for ETC designation in a non-rural ILEC's service area, it is *per se* in the public interest to grant ETC designation to that applicant.
19. Because Dobson has shown that its application meets the criteria of the Commission's rules, designation of Dobson as an ETC in the requested non-rural ILEC service areas is *per se* in the public interest.
20. DELETED.
21. DELETED.

22. DELETED.
23. The potential dilution of the FUSF is a matter existing in every ETC designation case.
24. Absent specific rules or other guidance from Congress, the FCC, or the Commission, the potential dilution of the FUSF need not be addressed in individual dockets.
25. Pending recommendations by the Joint Board are not binding upon the Commission.
26. Based on the above findings of fact, Dobson satisfies the federal and state requirements for designation as an ETC in the 129 non-rural ILEC wire centers identified in Exhibits TC-11, TC-12 and TC-15 attached to the Supplemental Testimony on Remand of Thomas A. Coates filed on September 27, 2004.

VIII. Conclusions of Law on Remand

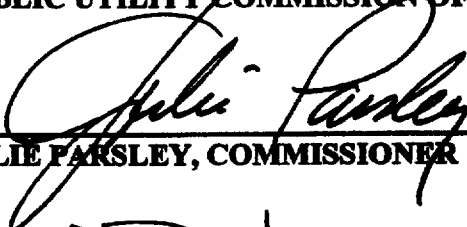
1. Dobson has shown the service areas in which it seeks designation as an ETC under P.U.C. SUBST. R. 26.418(g)(1)(B)(iv), providing sufficient detail that would allow any party to make a finding as to whether a consumer falls within its ETC designation area.
2. Dobson will offer each of the services that are supported by the Federal Universal Service Fund support mechanisms under 47 U.S.C. § 254 to any consumer in the services areas for which it seeks ETC designation as required by P.U.C. SUBST. R. 26.418(g)(1)(B)(ii), without restriction and consistent with the requirements of the Federal Communications Commission in *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (Jan. 22, 2004).
3. Dobson has demonstrated that it will be able to provide each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. § 254, and adequately shown the facilities that it will use to provide such services to consumers.

IX. Ordering Paragraphs

1. Dobson's application is approved in regard to the 129 non-rural wire centers identified in Exhibit TC-11, TC-12 and TC-15 attached to the Supplemental Testimony on Remand of Thomas A. Coates filed on September 27, 2004, in accordance with the above findings of fact and conclusions of law.
2. Dobson shall include language in all service contracts, or in separate statements given to all customers, advising of the availability of the Lifeline and Link-Up discounts and the requirements for such discounts.
3. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 14th day of January 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



JULIE PARSLEY, COMMISSIONER



PAUL HUDSON, CHAIRMAN



BARRY T. SMITHERMAN, COMMISSIONER